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January 13, 2006

VIA ELECTRONIC MAIL

TO ALL COUNSEL OF RECORD:
See Attached Distribution List

Re: In re Acacia Media Technologies Corporation Patent Litigation

Dear Counsel:

Attached is a proposed stipulated summary judgment of non-infringement and invalidity for indefiniteness of U.S. Patent No. 6,144,702. Please review the document and communicate to Alan Block by Monday, January 23, 2006 whether the content and form is acceptable to your respective clients.

Very truly yours,

Roderick G. Dorman

RGD:ls

Enclosure

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re: ACACIA MEDIA TECHNOLOGIES CORPORATION PATENT LITIGATION	Case No. C 05-01114 MDL No. 1665 **[PROPOSED] STIPULATED SUMMARY JUDGMENT OF NONINFRINGEMENT AND INVALIDITY FOR INDEFINITENESS OF US PATENT NO. 6,144,702** **[F.R.C.P. 54(B); N.D. CAL. LOCAL RULE 7-12]**

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On December 7, 2005, the Honorable James Ware issued the "Further Claim Construction Order; Order Finding Claims Terms Indefinite And Claims Invalid" ("Order"). In the Order, the Court found, among other things, the following:

1. that the claim term "sequence encoder," which appears in independent claims 1 and 17 and in dependent claims 18 and 32, of U.S. Patent No. 6,144,702 ("the '702 patent"), is indefinite;

2. that the claim term "identification encoder," which appears in independent claims 1, 17, and 27 and in dependent claims 5, 6, 19, and 31 of the '702 patent, is indefinite; and

3. that the claim phrase "transmission system at a first location," which appears in independent claims 1, 17, and 27 of the '702 patent, means "a transmission system at one particular location separate from the location of the reception system."

Although this MDL proceeding involves claims for patent infringement by Acacia regarding five related U.S. Patents, Nos. 5,132,992; 5,253,275; 5,550,863; 6,002,720; and the '720 patent, the claim terms "sequence encoder," "identification encoder," and "transmission system at a first location," do not appear in any of the claims of these four patents. These claim terms appear only in the claims of the '702 patent.

The parties agree that the effect of the Court's finding that the term "sequence encoder" in claims 1, 17, 18, and 32 is indefinite and finding that the term "identification encoder" in claims 1, 17, and 27 is indefinite, if upheld on appeal, would be to render all of the claims of the '702 patent (claims 1-42) indefinite, and therefore invalid, under 35 U.S.C. § 112, ¶ 2.

The parties also agree that the effect of the Court's construction of the phrase "transmission system at a first location" in claims 1, 17, and 27 of the '702 patent as meaning "a transmission system at one particular location separate from the location of the reception system," if upheld on appeal, would be to render all of the claims of the '702 patent (claims 1-42) not infringed by the transmission systems made, used, or sold by the defendants in this case which are located at more than one location.

Accordingly, the parties to the cases listed below agree and request entry of summary

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judgment of: (1) invalidity for indefiniteness of claims 1-42 of the '702 patent on the basis that the Court has found that the terms "sequence encoder" and "identification encoder" of claims 1-42 of the '702 patent are indefinite; and (2) for non-infringement of claims 1-42 the '702 patent on the basis that the Court has construed the phrase "transmission system at a first location" to mean "a transmission system at one particular location separate from the location of the reception system," which would thereby cause claims 1-42 of the '702 to not be infringed by transmission systems made, used, or sold by defendants which are located at more than one location. This Summary Judgment is without prejudice as to all rights of Acacia on appeal and without prejudice to Acacia asserting that claims 1-42 of the '702 patent are valid and infringed by defendants should Acacia prevail in its appeal.

THEREFORE, IT IS ADJUDICATED, as a matter of law, that Plaintiff Acacia shall take nothing as to all defendants listed below on its claim for infringement of its '702 patent, and that, as to all defendants listed below, the Court shall enter Summary Judgment of: (1) invalidity of claims 1-42 for indefiniteness on the basis that the Court has found that the terms "sequence encoder" and "identification encoder" of claims 1-42 of the '702 patent are indefinite; and (2) non-infringement of claims 1-42 on the basis that the Court has construed the phrase "transmission system at a first location" to mean "a transmission system at one particular location separate from the location of the reception system," which would thereby cause claims 1-42 of the '702 to not be infringed by transmission systems made, used, or sold by defendants which are located at more than one location. The entry of this Summary Judgment is without prejudice to Acacia's rights as outlined above.

There is no just cause for delay, and thus the Court directs entry of this judgment pursuant to Fed. R. Civ. P. Rule 54(b) in the cases listed below:

Separate N.D. Cal. Case Number	**Defendant(s)**
05-CV-01561 JW	Game Link, Inc.
05-CV-01562 JW	Club Jenna, Inc. and CJ, Inc.
05-CV-01563 JW	1. Cybernet Ventures, Inc.

Separate N.D. Cal. Case Number	**Defendant(s)**
	2. ACMP, LLC 3. Global Media Resources SA
05-CV-01564 JW	Global AVS, Inc., dba DrewNet
05-CV-01565 JW	1. ICS, Inc. 2. AP Net Marketing, Inc.
05-CV-01566 JW	National A-1 Advertising, Inc.
05-CV-01568 JW	New Destiny Internet Group
05-CV-01569 JW	Audio Communications
05-CV-01570 JW	VS Media, Inc.
05-CV-01571 JW	Ademia Multimedia, LLC
05-CV-01572 JW	1. International Web Innovations, Inc. 2. Offendale Commercial Ltd. BV
05-CV-01573 JW	Adult Entertainment Broadcast Network
05-CV-01574 JW	Cybertrend, Inc.
05-CV-01575 JW	Lightspeedcash
05-CV-01576 JW	1. Adult Revenue Service 2. Innovative Ideas International 3. Global Intermedia, Inc. 4. Askcs.com, Inc.
04-CV-02308 JW	1. Comcast Cable Communications, LLC 2. Charter Communications, Inc. 3. The DIRECTV Group, Inc.

Separate N.D. Cal. Case Number	Defendant(s)
	4. Echostar Technologies Corp. 5. Echostar Satellite LLC 6. Hospitality Network, Inc. 7. Coxcom, Inc.
04-CV-03789 JW	Mediacom Communications Corporation
05-CV-01399 JW	1. Mid-Continent Media, Inc. 2. US Cable Holdings LP 3. Savage Communications Inc. 4. Loretel Cablevision 5. Arvig Communication System 6. Cannon Valley Communications, Inc. 7. Sjoberg's Cablevision, Inc.
05-CV-01543 JW	1. Armstrong Group 2. Block Communications, Inc, dba Buckeye Cable 3. Wide Open West LLC 4. Massillon Cable TV, Inc.
05-CV-01598 JW	1. Cable America Corporation 2. Cable One, Inc. 3. NPG Cable, Inc.
05-CV-01703 JW	Cebridge Communications

SO ORDERED.

Date: ____________

____
United States District Judge

Stipulated to and agreed upon:

Dated: January ___, 2006

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